

Exhibit 4

DECLARATION OF LINDSEY DOUGHERTY

COMES NOW, Lindsey Dougherty and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Lindsey Dougherty, and I am over 18 years old. I have personal knowledge of the facts as stated herein.
2. I am the mother of G.D., who is 10 years old and is in fifth grade at Enon Elementary School, which is part of the Chesterfield County Public School Division.
3. G.D. has been diagnosed with Pediatric Autoimmune Neuropsychiatric Disorder associated with Streptococcus (PANDAS) and asthma, which makes G.D. immune deficient and substantially limits major life activities, including breathing.
4. These conditions put G.D. at higher risk for severe complications if he were to become infected with COVID-19.
5. I also have one other child who is not disabled and does not have health conditions that put them at greater risk for severe complications should they contract COVID-19- B.D., who is 5 years old and in kindergarten.
6. Both G.D. and B.D are fully vaccinated against COVID-19, but are not yet eligible for the booster. My husband and I are both fully vaccinated against COVID-19 and have also received the booster. Even with vaccination, G.D. remains at heightened risk of serious illness due to COVID-19.
7. G.D. attended school virtually for the 2020-2021 school year, but it did not work well for him. He fell behind in almost all academic subjects and failed all of his Standards of Learning tests (SOLs). G.D. has an Individualized Education Program (IEP) for other health impairments and dyslexia. The remote learning option does not provide the

necessary supports, services, and accommodations for my disabled child including direct instruction and socialization with peers. In-person instruction provides the best mode of instruction for my children's needs.

8. G.D. attended school in-person in the 2021-2022 school year. The only virtual options for the 2021-2022 school year were a statewide self-directed virtual school and a county virtual option, but both myself and my husband work and it was not possible for G.D. to participate in the virtual school options. Additionally, there are currently no open seats in either of these virtual programs and as stated above virtual learning is unable to meet G.D.'s needs.
9. G.D.'s doctor recommends that all Centers for Disease Control and Prevention (CDC) COVID-19 guidelines be used to protect him, especially masking indoors.
10. Until Executive Order 2, students and staff in Chesterfield schools, including G.D.'s school, universally masked. Following the issuance of Executive Order 2, on January 25, 2022, the District voted to "amend its existing COVID-19 Mitigation Plan to include providing parental choice for facemasks" beginning January 27, 2022. See Exhibit A (Email from Chesterfield County Public Schools Dated January 26, 2022).
11. On January 26, 2022, Chesterfield County Public Schools issued communication to families stating that while school staff and individuals on school busses would still be required to wear a mask, "parents can choose whether or not their child wears a mask." See Exhibit A.
12. Currently, there is no separation of masked and unmasked students and there is not enough room in classrooms for six feet of social distancing between students.

13. The week of January 29, 2022, through February 4, 2022, Chesterfield County had one of the largest increases in COVID-19 cases in Virginia, with a reported 68,100 cases and an increase of 1,534 cases from the prior week.
14. My family requested an emergency IEP team meeting to discuss options for G.D. in light of this policy change. The team offered a plexiglass barrier in all classrooms, but these barriers do not provide the same level of protection as universal masking and are not in accordance with G.D.'s doctor's guidance to follow all CDC COVID-19 guidelines. Chesterfield County Public Schools has also provided me with conflicting information regarding whether G.D. may be eligible for homebound educational services.
15. Because there is no longer a mask mandate in the Chesterfield County Public School Division, from January 27, 2022, through February 4, 2022, we made the difficult decision to keep G.D. and his sister B.D. at home for G.D.'s health and safety.
16. Because both my husband and myself work out of the home and cannot continue to miss work we had to send G.D. and B.D. back to school starting February 4, 2022, despite these risks to G.D.'s health and safety.
17. So long as masking remains optional at Chesterfield County Public schools we intend to keep our children home from school whenever we can work from home. We are also keeping a close eye on transmission and positivity rates both at school and in the community.
18. My husband and I have been forced to choose between G.D.'s education and his health.
19. I am seeking to have EO 2 blocked so that my school will be able to require universal masking as necessary to meet its obligations to my children.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dates this 8th day of February, 2022 at Chester, Virginia.

A handwritten signature in black ink, appearing to read 'L. Dougherty', written over a horizontal line.

Lindsey Dougherty, Plaintiff

Exhibit A

From: **Chesterfield County Public Schools** <ccpsinfo@ccpsnet.net>

Date: Wed, Jan 26, 2022, 6:05 PM

Subject: CCPS Update: Interim guidance by VDOE and VDH

To: **REDACTED**

Chesterfield County Public Schools

Jan. 26, 2022

Interim guidance by VDOE and VDH

- Interim guidance by VDOE and VDH
- Important notes
- Ongoing mitigation strategies
- Gov. Youngkin's Executive Order #2
- COVID-19 Guidance and Dashboard
- Respect others' choices

Interim guidance by VDOE and VDH

The Chesterfield County School board met on Tuesday, Jan. 25. During this meeting, the board voted 3-2 to approve a motion "to amend its existing COVID-19 Mitigation Plan to include providing parental choice for face masks, and implementing the new Interim Guidance for COVID-19 prevention in Virginia PreK-12 schools as set forth by the Virginia Department of Education and the Virginia Department of Health on Jan. 21, 2022. This change will be effective, Thursday, Jan. 27, 2022."

Important notes

- A [federal public health order](#) remains in place requiring individuals to wear a mask when using public transportation, including school buses.
- Governor Youngkin's Executive Order only addresses students. Staff are still required to wear masks per the following guidance:
 - Virginia Occupational Safety and Health [COVID-19 workplace standards](#)
 - Occupational Safety and Health Administration [workplace guidelines](#)
- The definition of close contact that guides contact tracing in schools has not changed. The following is from the [Interim COVID-19 Guidance](#) issued on Friday, Jan. 21 by the VDOE and VDH:

Exhibit A

- The definition of close contact includes an exception for K-12 settings for the purposes of case investigation and contact tracing. In general, VDH uses proximity of within 6 feet for a total of 15 minutes or more within 24 hours to determine the need for quarantining persons who have had close contact exposure to someone with suspected or confirmed COVID-19. **In K-12 settings, a student who is within 3 to 6 feet of an infected student is not considered a close contact as long as both students wore well-fitting masks the entire time.**
- **The VDH and VDOE guidance for dealing with positive tests and close contacts has not changed.**
 - Parents can choose whether or not their child wears a mask; however, students who do not wear masks and test positive for COVID-19 or are identified as close contacts will have longer isolation and quarantine periods, per the guidance provided by VDH and VDOE on Friday, Jan. 21: **“VDH recommends a 10-day isolation or quarantine period for students who are not willing to wear a mask in school on days 6-10 after quarantine or isolation.”**
 - For questions about what happens when there is a COVID-19 diagnosis, please refer to the [Staff FAQ](#) and [Student FAQ](#) documents on the COVID-19 Guidance page.

Ongoing mitigation strategies

Chesterfield Schools has the following mitigation strategies in place, and will continue to focus on the following:

- Daily health assessment for students and staff
- Reporting to families and staff regarding positive cases
- Improved HVAC systems and ventilation
- Enhanced cleaning protocols/frequency
- Social distancing, where possible
- Isolation of those who test positive
- Quarantine of close contacts per guidance from CDC and VDH
- Sick and well clinic spaces

Other mitigation measures

KN95 masks are available at all schools. Staff and students may request one from a school staff member at any time. In addition to the masks at schools, there are 40,000 masks in reserve that can be requested by schools if needed.

Exhibit A

Test to Stay is a VDH program for unvaccinated students who are identified as close contacts, allowing them to avoid quarantine if they test each day for five days after exposure. Testing is completed at home via a proctored test. Per VDH, the Test to Stay program requires students to wear a mask for 10 days after exposure to participate. We have started to receive Test to Stay testing kits from VDH and we are in the process of distributing these to our schools.

Gov. Youngkin's Executive Order #2

Please see the following from Gov. Youngkin's Executive Order #2:

- The parents of any child enrolled in an elementary or secondary school or a school based early childcare and educational program may elect for their children not to be subject to any mask mandate in effect at the child's school or educational program.
 - No parent electing that a mask mandate should not apply to his or her child shall be required to provide a reason or make any certification concerning their child's health or education.
 - A child whose parent has elected that he or she is not subject to a mask mandate should not be required to wear a mask under any policy implemented by a teacher, school, school district, the Department of Education, or any other state authority.

[You can read the full Executive Order here.](#)

COVID-19 Guidance and Dashboard

The COVID-19 Guidance page on the division website has been updated with information including [Gov. Youngkin's Executive Order #2](#), the [Friday, Jan. 21 news release](#) from the governor's office announcing updated guidelines for parents, educators and PreK-12 schools, and the [Interim COVID-19 Guidance](#) from the Virginia Department of Education and the Virginia Department of Health. Daily health assessments for students and staff and FAQs are also available on the [COVID-19 Guidance page](#).

Exhibit A

The [COVID-19 Dashboard](#) on the division website has information including positive cases, daily quarantine numbers as well as numbers detailing case numbers and percentages over the last seven days.

We will continue to share any additional information and/or updates to our current guidance as we receive it.

Respect others' choices

Bullying and disruptive behavior has no place in our schools for any reason, and inappropriate behavior directed at students or staff will not be tolerated. Please talk with your student about the importance of respecting others' choices and opinions.



Chesterfield County Public Schools
P.O. Box 10, Chesterfield, VA 23832

visit mychesterfieldschools.com

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